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SUBJECT: TURKEY'S TERRORISM LAWS: MOJ AGREES TO REVIEW

¶1. (SBU) SUMMARY: During January 2009 meeting in Washington, high-ranking officials of the Turkish Ministry of Justice (MOJ) agreed for the first time to conduct a comprehensive review of their legal framework for prosecuting terrorism activities. They also expressed keen interest in the USG designation process for terrorists. Turkey's willingness to thoroughly review its terrorism legislation is encouraging, but political constraints make the needed parliamentary actions problematic. END SUMMARY.

¶2. (SBU) Between January 24-30, the U.S. Department of Justice's (DOJ) Resident Legal Advisor traveled to the United States with a delegation of officials from the Legislative Affairs Section of the Ministry of Justice (MOJ). Deputy Undersecretary Huseyin Yildirim headed the delegation, which also included Director General Kenan Ozdemir, Deputy Director General Yusuf Balo and Investigating Judge Zeki Yildirim. During the week the group met with numerous relevant State Department and Department of Justice components.

Anti-terrorism Law Discussed

¶3. (SBU) During a four-hour meeting with DOJ National Security Division/Counterterrorism Section officials (NSD/CTS), which included a briefing by NCTC and DOD, the USG against raised concerns regarding the Turkey's narrow definition of terrorism. (NOTE: Main terrorism provisions are set forth in Turkey's 1991 anti-terrorism law and in a 2005 provision in the Turkish Criminal Code. The main elements prohibit acts by organizations which aim to change "the constitution, its political, legal, social, secular and economic system; damage the indivisible unity of the State within its territory and nation; or endanger the existence of the Turkish State and Republic." Thus the focus of the laws is almost exclusively internal to Turkey. END NOTE)

¶4. (SBU) In contrast with previous discussions on this topic, the MOJ officials did not attempt to defend their legal framework. Rather, the Deputy Undersecretary said that he would direct his staff to conduct a thorough review of the issue, solicit input from Turkey's terrorism prosecutors, and develop a strategy for improving the law, if appropriate.

Designations

¶5. (SBU) The delegation also expressed keen interest in the process by which the U.S. adds or deletes individuals and organizations from its terrorism designation lists. During a briefing with State S/CT, which included a representative of the Designations Office, members of the delegation asked detailed and pointed questions about the designations process. They had no specific examples to discuss, and

were familiar with the U.N. list, but were eager to discuss U.S. methods of review and appeal.

USG Next Steps

¶6. (SBU) In March 2009, a prosecutor from DOJ NSD/CTS who has been reviewing Turkey's counterterrorism legislation, and who participated in the meetings with the Turkish delegation, will travel to Ankara for further consultations with MOJ. The delegation indicated an eagerness to continue their dialogue with her so it is hoped that by March the MOJ will be willing to set forth a concrete strategy for improving their laws.

Comment

¶7. (SBU) For the first time, Turkish MOJ officials appear willing to concede that there might be a problem with their terrorism law as drafted, and have indicated a willingness to consider amending the law. Although this process will not be quick or easy, it is encouraging that they have shown a willingness to cooperate on the issue, and seem anxious for our assistance. Over the course of the next several months, the RLA, with the assistance of DOJ NSC/CTS and S/CT, will work with MOJ officials to further define the issue and prepare concrete solutions.

¶8. (SBU) While the willingness of the Turkish prosecutors to review and improve their terrorism legislation is encouraging, actually fixing it may be easier said than done. First, while we initially hoped that "technical amendments" might be made to the law, Turkish laws are similar to U.S. laws in that any revision to their legislation must be made by the Parliament after due consideration. As the Turkish delegation pointed out, given Turkey's bid for EU accession, the scrutiny they face from human rights organizations makes any terrorism legislation subject to intense scrutiny and skepticism. Thus while the MOJ may be willing and supportive of legislative changes, actually getting those changes through Parliament will not be easy.

Jeffrey